

DAYNA C. COOPER (*pro hac vice pending*)  
Dayna@CooperLegalSolutions.com

COOPER LEGAL, LLC  
1 Olympic Pl., Suite 900  
Towson, MD 21204  
Telephone: (202) 642 5470  
Facsimile: (757) 257 9878

*Attorneys for Plaintiff Julius Johnson*  
(Additional attorneys listed on signature page)

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JULIUS JOHNSON,

Plaintiff,

v.

ONIKA TANYA MARAJ, et al.

Defendants.

CASE NO. 2:23-cv-05061-PA-AFM

**PLAINTIFF'S *EX PARTE* APPLICATION FOR  
AUTHORIZATION TO INCLUDE  
NEW, RELATED CLAIM IN  
SECOND AMENDMENT  
COMPLAINT DUE JANUARY 3,  
2024**

**Honorable Percy Anderson**

**TO ALL PARTIES AND THEIR ATTORNEY'S OF RECORD:**

**PLEASE TAKE NOTICE THAT:**

Plaintiff, JULIUS JOHNSON, hereby applies for *ex parte* relief for leave to add a new claim to his Second Amended Complaint ("SAC"). On November 13, 2023, defendants Michael Len Williams, II ("Williams"), Sounds from Eardrums, LLC, and W Chappell Music Corp. d/b/a WC Music Corp. f/k/a WB Music Corp., and

1 joined by defendants Onika Tanya Maraj p/k/a Nicki Minaj (“Minaj”), Harajuku  
2 Barbie Music, LLC, Universal Music Group, Inc., Songs of Universal, Inc., and  
3 Money Mack Music, Inc. (collectively, “Moving Defendants”)<sup>1</sup> moved to dismiss  
4 Plaintiff’s First Amended Complaint (“FAC”). Dkt. Nos. 54–56.

5 On December 15, 2023, this Court granted the Motion in part. Dkt. 67.  
6 Specifically, the Court dismissed Plaintiff’s claims for copyright infringement,  
7 vicarious infringement, and contributory infringement with leave to amend, and  
8 dismissed Plaintiff’s claim for unfair competition and false designation of origin in  
9 violation of the Lanham Act without leave to amend. The Court ordered Plaintiff to  
10 file his Second Amended Complaint no later than January 3, 2024 on pain of  
11 “dismissal of this action” “without further warning”; and ordered that the SAC “shall  
12 not include any new claims ... without the Court’s authorization.” Dkt. 67 at p. 7.

13 In his impending SAC, Plaintiff files this *ex parte* application to request leave  
14 to add a new claim As outlined in the below Memorandum and Points and Authorities,  
15 the factual allegations underlying the proposed claim Plaintiff seeks to add were  
16 substantially alleged in the “FAC”: Only the legal theory asserted should be  
17 considered “new.”  
18  
19

---

20 <sup>1</sup> There are four other named defendants in this action: Kazarion Fowler, Esther Renay  
21 Dean, Dat Damn Dean, and Marcus Bell. These defendants and Moving Defendants  
are collectively referred to as “Defendants.”

1       Accordingly, recrafting the previously asserted factual allegations into a new  
2 claim is harmless and will cause no delay in these proceedings. Defendants will not  
3 suffer any prejudice as there has been no Answer filed and thus no discovery  
4 commenced. Moreover, Defendants will have the opportunity to seek to dismiss the  
5 new claim in due course after the SAC is filed by January 3, 2024.

6       While Plaintiff recognizes that this Court disfavors *ex parte* applications, other  
7 potential procedural mechanisms for potentially obtaining the requested--and  
8 expressly required--authorization to include the new claim in SAC have effectively  
9 been foreclosed. That is, under standard motion practice, Local Rule 7-3 would  
10 require a conference with opposing counsel “at least 7 days prior to the filing of the  
11 motion.” Accordingly, even if opposing counsel were available to meet and confer on  
12 December 19, 2023—the day the Court issued its Order (Dkt. 67), Plaintiff would  
13 have been prohibited from filing such motion until December 26, 2023. The  
14 corresponding hearing date would be in mid-January at the earliest, and Plaintiff  
15 would have been required to file its SAC (on January 3, 2024) before Defendants’  
16 opposition brief were even due (on January 5, 2024, per L. R. 7-9). Ultimately, the  
17 Court’s Order that the Plaintiff file its SAC within 15 days (Dkt. 67 at 7) powerfully  
18 suggests to Plaintiff that the Court would prefer to adjudicate the requested  
19 authorization in an expedited manner that would *not* (i) run afoul of expressly ordered  
20 deadlines or (ii) potentially necessitate a Third Amended Complaint in short order.

On December 27 and 28, 2023, Plaintiff's lead counsel, Dayna C. Cooper, notified opposing counsel via email and orally of her intention to file this *ex parte* application and the basis therefore, and to inquire whether Defendants would oppose this request. At the time of the filing this application, counsel for defendants Michael Len Williams, II, Sounds from Eardrums, LLC, and W Chappell Music Corp. d/b/a WC Music Corp. f/k/a WB Music Corp. indicated that he intended to oppose this application as did counsel for defendants Onika Tanya Maraj p/k/a Nicki Minaj and Harajuku Barbie Music, LLC. In addition, in an email and telephone conversations counsel for, counsel defendants, Universal Music Group, Inc., Songs of Universal, Inc., and Money Mack Music, Inc. indicated that they intended to oppose this application. With respect to the other Defendants,<sup>2</sup> no response has yet been received.

Pursuant to Local Rule 7-19, contact information for counsel for Defendants participating in this action is provided below.

DEFENDANT	COUNSEL
Michael Len Williams, II, Sounds from Eardrums, LLC, and W Chappell Music Corp. d/b/a WC Music Corp. f/k/a WB Music Corp,	Thomas Lundin FisherBroyles LLP 111 Favre Street Waveland, MS 39576 (678) 778.8857 <a href="mailto:tom.lundin@fisherbroyles.com">tom.lundin@fisherbroyles.com</a>

<sup>2</sup> Plaintiff has been unable to locate or contact unserved Defendant Marcus Bell. *See* Dkt. 60. Plaintiff has not contacted defaulting Defendant Kazarion Fowler. *See* Dkt. 37.

1		Larry R. Schmadeka FisherBroyles LLP 260 Newport Center Dr., Ste. 100 Newport Beach, CA 92660 (949) 694-5388 <a href="mailto:larry.schmadeka@fisherbroyles.com">larry.schmadeka@fisherbroyles.com</a>
2		
3		
4		
5	Universal Music Group, Inc., Songs of Universal, Inc., and Money Mack Music, Inc.	David A. Steinberg Mitchell Silberberg & Knupp LLP, 2049 Century Park East, 18th Floor, Los Angeles, CA 90067 (310) 312.3204 <a href="mailto:das@msk.com">das@msk.com</a>
6		
7		
8		Lindsay Edelstein Mitchell Silberberg & Knupp LLP 437 Madison Ave., 25th Floor New York, NY 10022 (917) 546.7764 <a href="mailto:lre@msk.com">lre@msk.com</a>
9		
10		
11		
12	Onika Tanya Maraj p/k/a Nicki Minaj and Harajuku Barbie Music, LLC,	Mark S. Posard Gordon Rees Scully Mansukhani, LLP 275 Battery Street, Suite 2000 San Francisco, CA 94111 (415) 986.5900 <a href="mailto:mposard@grsm.com">mposard@grsm.com</a>
13		
14		
15		Susan B. Meyer Gordon Rees Scully Mansukhani, LLP 1601 Mt. Rushmore Road, Suite 3-227 Rapid City, SD 57701 (619) 230-7456 <a href="mailto:smeyer@grsm.com">smeyer@grsm.com</a>
16		
17		
18	Esther Dean and Dat Damn Dean	Peter Anderson Davis Wright Tremain LLP 865 S Figueroa Street, 24 <sup>th</sup> Floor Los Angeles, CA 90017 (213) 633-6800 <a href="mailto:peteranderson@dwt.com">peteranderson@dwt.com</a>
19		
20		

1 Additionally, pursuant to Local Rule 7-19-1, the Plaintiff's counsel has telephoned  
2 lead counsel for each above-listed Defendants in an attempt to orally advise as to the  
3 date and substance of this *ex parte* application.

4 Dated: December 28, 2023

Respectfully submitted,

5 /s/ Dayna C. Cooper

6 Dayna C. Cooper (*pro hac vice*)  
Dayna@CooperLegalSolutions.com  
7 COOPER LEGAL, LLC  
1 Olympic Pl., Suite 900  
Towson, MD 21204  
8 Telephone: (202) 642 5470  
Facsimile: (757) 257 9878

9 Laurence M. Sandell (SBN 262186)  
lsandell@meimark.com  
10 MEI & MARK LLP  
P.O. Box 65981  
Washington, DC 20035-5981  
11 Telephone: 888-860-5678  
Facsimile: 888-706-1173

12 Manni Li (SBN 273984)  
mli@meimark.com  
13 Mei & Mark LLP  
9440 Santa Monica Blvd., Suite 301  
Beverly Hills, CA 90210  
14 Telephone: 888-860-5678 ext. 713  
Facsimile: 310-564-2769

15 *ATTORNEYS FOR PLAINTIFF,*  
16 JULIUS JOHNSON

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Plaintiff's *ex parte* application seeks only authorization to add a single claim. The claim Plaintiff seeks leave to file, in effect, seeks adjudication of and relief from wrongful behavior of Defendants that has substantially already been alleged. That is, Plaintiff, in the FAC, has substantially already alleged the factual underpinning of the substantive elements, or at least the essence, of a claim regarding false copyright management information under 17 U.S.C. § 1202(a). Referencing, summarizing, and/or amplifying those allegations in a new count in the pleadings neither substantially enlarges the Action, surprises Defendants with new allegations of wrongdoing, nor causes undue delay in this matter.

### II. ARGUMENT

#### A. Leave to Amend the Complaint Should Be Freely Granted

Rule 15(a) provides that leave to amend shall be freely given when justice requires. Fed. R. Civ. P. 15. “[E]ven where a party has amended his Complaint once or a responsive pleading has been served, the Federal Rules provide that leave to amend should be freely given when justice so requires. The Ninth Circuit requires that this policy favoring amendment be applied with ‘extreme liberality.’” *Apodaca Promotions, Inc. v. Nuccio*, No. CV 09-8566 PAFMOX, 2010 WL 60964, at \*2 (C.D. Cal. Jan. 4, 2010)(internal citations omitted). The Court may allow amendment of complaint to change theory of case up to and even after trial, in absence of clear

1 showing of harm to defendant from tardy amendment. Fed. R. Civ. P. 15. The  
 2 Supreme Court has provided, “if the underlying facts or circumstances relied upon by  
 3 a plaintiff may be a proper source of relief, he ought to be afforded an opportunity to  
 4 test his claim on the merits.” *Forman v. Davis*, 371 U.S. 178, 182 (1962).

5 **B. None of the Factors Justifying Denial of a Request for Leave to**  
 6 **Amend Are Present and Thus Leave to Amend Should Be Granted**

7 There exists no bad faith, undue delay, or prejudice to Defendants, nor would  
 8 the amendments be futile.

9 The addition of the proposed claim does not change the fundamental nature of  
 10 this copyright case. Specifically, § 1202(a) provides, “No person shall knowingly and  
 11 with the intent to induce, enable, facilitate, or conceal infringement – (1) provide  
 12 copyright management information<sup>3</sup> that is false, or (2) distribute or import for  
 13 distribution copyright management information that is false.”

14 Plaintiff has already alleged, *inter alia*, “Defendants wrongfully credited other  
 15 parties as being authors of Defendants’ infringing work, *I Lied*—to the exclusion of  
 16 Johnson.” Compl. ¶ 74. Plaintiff has also alleged that Defendants placed the work in  
 17 commerce without credit to Johnson. Compl. ¶¶ 88-100. Plaintiff has also alleged that

---

18  
 19 <sup>3</sup> 17 U.S.C. § 1202(c) provides that “copyright management information” includes but  
 20 it not limited to “[t]he title and other information identifying the work;” “[t]he name  
 21 of, and other identifying information about, the author of a work;” and “The name of,  
 and other identifying information about, the copyright owner of the work.” This is the  
 very essence of Plaintiff’s complaint.



1 the acts were willful. Compl. ¶ 163. Indeed, Plaintiff has even requested relief of  
2 judgements “declaring that Johnson was an author of the music of *I Lied*” and  
3 “ordering that Defendants publicly and prominently provide Johnson with attribution  
4 credit for his contribution to *The Pinkprint*, *Ransom*, and *I Lied*.” Compl. ¶ 440(c) &  
5 (d). Accordingly, Plaintiff’s request to incorporate the same and corresponding  
6 allegations into a separate claim in his SAC is harmless, not in bad faith, and not  
7 futile.

8 Plaintiff’s proposed addition will not cause undue delay because it raises no  
9 new issues. Further, Plaintiff has been granted leave to amend his other claims, and  
10 this no responsive pleading has yet been filed nor has discovery on any of the issues  
11 commenced. Accordingly, there is no undue delay in the parties proceeding to trial.

### 12 **III. CONCLUSION**

13 For all the foregoing reasons, in the interest of justice, Plaintiff respectfully  
14 requests the Court grant leave to add the additional claim to his Second Amended  
15 Complaint.

1 Dated: December 28, 2023

Respectfully submitted,

2 /s/ Dayna C. Cooper

3 Dayna C. Cooper (*pro hac vice*)  
Dayna@CooperLegalSolutions.com  
COOPER LEGAL, LLC  
4 1 Olympic Pl., Suite 900  
Towson, MD 21204  
Telephone: (202) 642 5470  
5 Facsimile: (757) 257 9878

6 Laurence M. Sandell (SBN 262186)  
lsandell@meimark.com  
MEI & MARK LLP  
7 P.O. Box 65981  
Washington, DC 20035-5981  
Telephone: 888-860-5678  
8 Facsimile: 888-706-1173

9 Manni Li (SBN 273984)  
mli@meimark.com  
Mei & Mark LLP  
10 9440 Santa Monica Blvd., Suite 301  
Beverly Hills, CA 90210  
Telephone: 888-860-5678 ext. 713  
11 Facsimile: 310-564-2769

12 *ATTORNEYS FOR PLAINTIFF,*  
JULIUS JOHNSON